

REMARKS

This Amendment is being filed in response to the Final Office Action mailed on October 13, 2011, which has been reviewed and carefully considered. By means of the present amendment, claim 20 has been amended for correct a typographic error. Accordingly, no new issues requiring a new search have been introduced and entry of the present amendment is respectfully requested. Reconsideration and allowance of the present application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-2, 4-16 and 19-28 are pending in the application, where claims 1 and 22 are independent.

In the Final Office Action, claims 1-2, 4-9, 11-12, 14-16 and 19-26 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 6,289,796 (Fung) in view of U.S. Patent No. 5,427,719 (Favre). Further, claim 10 is rejected under 35 U.S.C. §103(a) over Fung and Favre in view of U.S. Patent No. 5,862,740 (Gross). Claim 13 is rejected under 35 U.S.C. §103(a) over Fung and Favre in view of U.S. Patent No. 5,473,972 (Rizzuto). Applicants respectfully traverse and submit that claims 1-2, 4-16 and 19-28 are patentable over Fung, Favre, Gross and Rizzuto for at least the following reasons.

Fung is directed to a hot milk dispenser that supplies either frothed milk or non-frothed milk based on the position of a knob 14 that selects either a first nozzle 17 for

providing frothed milk (FIG 3), or a second nozzle 18 for providing non-frothed milk (FIG 4). The Fung hot milk dispenser is a unitary device where no parts appear to be detachably connected to the dispenser. Even if some parts are detachably connected to the dispenser, there is still no disclosure or suggestion of a cartridge that includes the following five elements: (1) a reservoir, (2) chamber or compartment, (3) a liquid transport channel, (4) a guide, and (5) liquid outlet, where such a cartridge that includes these five elements is detachably connected to the dispenser. Even assuming, arguendo, that detachable cartridge is somehow disclosed or suggested in Fung, as correctly noted in the paragraph spanning pages 2-3 of the Final Office Action, there is no disclosure or suggestion in Fung of "a reservoir that sealably holds a liquid in a sealed foil," as recited in independent claims 1 and 22. (Illustrative emphasis provided) Favre is cited in an attempt to remedy the deficiencies in Fung.

Favre is directed to an apparatus for making a beverage that includes sealed cartridge 1 with coffee grounds. Favre is completely silent and does not disclose or suggest any reservoir that sealably holds a liquid in a sealed foil.

It is respectfully submitted that Fung, Favre, and combination thereof, do not disclose or suggest the present invention as recited in independent claim 1, and similarly recited in independent claim 22 which, amongst other patentable elements, recites (illustrative emphasis provided):

a reservoir that sealably holds a liquid in a sealed foil;  
a chamber; ...  
a cartridge in which the reservoir, the chamber, the liquid

transport channel, the guide, and the liquid outlet are provided, wherein the cartridge is detachably connected to the device beverage-making appliance and the cartridge is disposable after the sealed foil is unsealed.

A detachable cartridge reservoir that sealably holds a liquid in a sealed foil, where the detachable cartridge includes a reservoir, a chamber or compartment, a channel between the sealed reservoir and the chamber or compartment, a guide, and a liquid outlet is nowhere disclosed or suggested in Fung and Favre, alone or in combination. At best the combination of Fung and Favre merely discloses a beverage making device with integral channels and chambers, and a detachable sealed cartridge which is nothing more than a mere sealed container without any further chambers, guides or channels, where such a detachable sealed cartridge only holds a coffee grounds in a sealed foil. Any reservoir that holds a liquid does not include any sealed foil for holding the liquid. Gross and Rizzuto are cited to allegedly show other features and do not remedy the deficiencies in Fung and Favre.

Accordingly, it is respectfully requested that independent claims 1 and 22 be allowed. In addition, it is respectfully submitted that claims 2, 4-16, 19-21 and 23-28 should also be allowed at least based on their dependence from independent claims 1 and 22, as well as their individually patentable elements. Accordingly, separate consideration of each of the dependent claims is respectfully requested.

For example, Fung, Favre, and combination thereof do not even disclose or suggest a that "the liquid outlet of the cartridge outputs the heated liquid directly into a cup so that the liquid present in the reservoir does not come into contact with the beverage-making

appliance," as recited in claim 27, and similarly recited in claim 28. (Illustrative emphasis provided) Rather, as described on column 6, lines 38-51 of Favre, "the liquid product flows directly into the housing 21 of the mounting member which constitutes a small liquid collector chamber (not illustrated) to direct the liquid product into a container, such as a cup or a beaker." (Favre, column 5, lines 58-59; emphasis added) That is, the liquid pouring in the cup come from the "small liquid collector chamber" of the Favre beverage making device, and not directly from the Favre sealed cartridge 1. This necessitates cleaning of the Favre beverage making device. In contrast, in the present invention as recited in claim 27, and similarly recited in claim 28, since "the liquid outlet of the cartridge outputs the heated liquid directly into a cup so that the liquid present in the reservoir does not come into contact with the beverage-making appliance," there is no need to clean the beverage-making appliance. (Illustrative emphasis provided)

It is alleged on page 7, last four lines of the Final Office Action, that Fung and Favre, like most heated liquid makers, are capable of producing a heated liquid that output directly into a cup." (Emphasis added) This allegation is respectfully traversed. Even assuming, arguendo, that this allegation is true, it is respectfully submitted that whether or not prior art is capable of performing the recitations of the claims is not a proper part of an obviousness analysis. As noted above, instead of having a cartridge with a liquid outlet, where the liquid outlet of the cartridge outputs the heated liquid directly into a cup, any liquid product flows directly into a housing of the Fung and Favre beverage-making appliance, and does not flow directly into a cup. That is, the liquid product flows from a cartridge into a

cup through a housing of a beverage-making appliance derived from the combination of Fung and Favre and not flow from any cartridge directly into cup.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

  
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